

# DRAFT

## Article ## Zoning

Underlined Text = Proposed New Language

To see if the Town will vote to amend the Eastham Zoning Bylaw, **SECTION 3.8.3 - APPLICABILITY** and to further amend **SECTION 3.8.5 ECSD USE REGULATIONS 3.8.5.1 ALLOWED USES** by adding a the following new language.

### 3.8 **DISTRICT I<sup>1</sup> – Eastham Corridor Special District**

#### 3.8.1 STATUTORY AUTHORITY

On November 1, 2017, the Barnstable County Assembly of Delegates adopted Barnstable Ordinance 17-12 and designated the district shown on a map labeled “Town of Eastham – Proposed DCPC August 2017” (“DCPC Map”) as District of Critical Planning Concern (“DCPC”), pursuant to Section 11 of the Cape Cod Commission Act (St. 1989, c.716, as amended)(“CCCA”) and pursuant to CCCA Section 11(d), the Town adopted these implementing regulations to regulate the DCPC which shall be known as the Eastham Corridor Special District.

#### 3.8.2 PURPOSE

The purpose of the Eastham Corridor Special District (ECSD), as designated in Barnstable County Ordinance 17-12, is to enhance and protect the character of Eastham’s commercial areas, encourage mixed-use development, support and enhance the economy in North Eastham, improve bicyclist and pedestrian safety and access along the Route 6 corridor, minimize traffic conflicts and improve access management throughout the District, expand opportunities for creation of affordable housing, and adopt best management practices to manage nutrients discharged through stormwater within the District.

#### 3.8.3 **APPLICABILITY**

##### 3.8.3.1 District Boundaries

The provisions of this Section shall apply within the Eastham Corridor Special District (ECSD), as shown on the DCPD Map [and as shown in more detail on a map entitled “Eastham Corridor Special District” Map dated May 7, 2018.

Accessory Outdoor Dining Service Areas are exempt from the provisions of subsection 3.8.5.3 for change, alteration, expansion of non-conforming structures and uses. Accessory Outdoor Dining Areas are also exempt from the ECSD District Wide Development Standards subsections 3.8.5.5.2 , 3.8.5.5.3, 3.8.5.5.4, 3.8.5.5.5, 3.8.5.5.6, 3.8.5.5.7, 3.8.5.5.8, 3.8.5.5.9 and 3.8.5.5.10 and from the ECSD Review Procedures under subsection 3.9.6, 3.9.7, 3.9.8, and 3.9.9.

Accessory Outdoor Dining Service Areas shall be regulated under Eastham Zoning Bylaw Section 5.0 - Accessory Uses, subsection 5.5 - Outdoor Dining Service Areas

3.8.3.2 Neighborhood Districts

For the purpose of this zoning bylaw, the Eastham Corridor Special District is divided into the following neighborhood zoning districts

**Core Commercial District (CC)**

The purpose of the Core Commercial District is to create a compact, vibrant commercial center at Route 6 and Brackett Road that contains small-scale commercial uses consistent with the neighborhood character and with interconnections between properties to facilitate convenient pedestrian and bicycle access and circulation. Buildings shall have small setbacks to the street, and no parking shall be allowed in front yards. The Core Commercial District has a commercial focus but also allows for accessory residential units.

**Office/Residential District (O/R)**

The purpose of the Office/Residential District is to allow a mix of residential and compatible low intensity commercial uses in a walkable, residential scale neighborhood. All development will follow traditional residential patterns. No direct access to Route 6 shall be allowed from lots in Office/Residential District in order to improve safety and to limit curb cuts on the highway.

**Transition Commercial District (TC)**

The purpose of the Transition Commercial District is to allow for small-scale commercial and residential uses on the Route 6 corridor outside of the Core Commercial area, with greater setbacks from Route 6, landscape treatments, and minimal visibility of parked cars, while maintaining pedestrian scale development and accessibility. A single curb cut shall provide access to Route 6 from lots in the Transition Commercial District in order to improve safety and limit curb cuts on the highway.

**Limited Commercial District (LC)**

The purpose of the Limited Commercial District is to allow for a predominantly residential area with low-intensity commercial uses on Route 6 well outside the Commercial Core, maintaining pedestrian scale development and accessibility, and avoiding creation of hazards or congestion. A single curb cut access to Route 6 shall provide access to Route 6 from lots in the Limited Commercial District in order to improve safety and limit curb cuts on the highway.

**Trade Park (TP)**

The purpose of the Trade Park District is to support the industrial and trade needs of the community, providing an appropriate location off of Route 6 for businesses in the building trades and similar industries.

**District A (Residential Uses)**

A residential district of single-family and two-family dwellings. A portion of District A is located within the ECSD and pre-dates establishment of the ECSD. This Section does not establish new zoning for District A. *(For District A zoning*

*regulation see Sections 3 and 7. Site Plan Approval for residential uses within the ECSD, where required under Section 7, shall fall under Eastham Zoning Bylaw Section 11 Site Plan Approval Residential).*

3.8.3.3 Relationship to Other Regulations

The provisions in this Section (Section 3 District I – Eastham Corridor Special District) apply to all development within the Eastham Corridor Special District. Other sections of the Town of Eastham Zoning Bylaw also apply within this special district, except that where this Section conflicts with or differs from other sections of the Eastham Zoning Bylaw, this Section shall control.

3.8.4 SPECIAL PERMIT GRANTING AUTHORITY AND SITE PLAN REVIEW

3.8.4.1 The Planning Board shall be the Special Permit Granting Authority (SPGA) for Special Permits within the Eastham Corridor Special District.

3.8.4.2 The Town Planner shall be the Planning Board's designee for conducting Minor Site Plan Approval within the Eastham Corridor Special District. The Planning Board shall be responsible for conducting Major Site Plan Approval in the Eastham Corridor Special District.



### 3.8.5 ECSD USE REGULATIONS

#### 3.8.5.1 Allowed Uses

In the following ECSD Table of Use Regulations, uses that are permitted by right in the district are designated by the letter (Y). Uses that may be permitted by special permit in the district are designated by the letter (SP). Uses designated (X) are not permitted in the district.

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
<b>PRINCIPAL USES</b>					
<b>AGRICULTURE</b>					
Farm	X	Y	Y	Y	Y
Plant nursery, other horticulture or floriculture	X	Y	Y	Y	Y
<b>RESIDENTIAL</b>					
Assisted living residence, with or without independent living	X	X	Y	Y	Y
Single-family dwelling	X	X	X	Y	Y
Two-family or duplex dwelling	X	X	X	Y	Y
Apartments and townhouses	X	X	Y	Y	Y
<b>COMMERCIAL</b>					
Antique, Craft, and Gift shops	Y	X	Y	Y	Y
Adult entertainment	X	SP	X	X	X
Animal hospital or veterinary office	X	X	Y	Y	X
Art gallery	Y	X	Y	Y	Y
Auction house	X	Y	X	X	X
Automotive repair, service	X	Y	X	X	X
Bakery, wholesale	Y	Y	Y	X	X
Bank	Y	X	Y	Y	Y
Barber shop, beauty salon	Y	X	Y	Y	Y
Boat building, repair, storage	X	Y	X	X	X
Cinema, movie theater	SP	X	Y	X	X
Contractor's yard	X	Y	X	X	X
Dry cleaning, laundromat	Y	X	Y	X	X
Fitness center, gym	Y	X	Y	X	Y

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
<b>PRINCIPAL USES</b>					
<b>COMMERCIAL</b>					
Food Truck	SP	SP	SP	SP	SP
Formula Business	SP	X	SP	X	X
Hospice care facility	X	X	Y	SP	Y
Hotel, Inn, Motel, Hostel	X	X	X	X	X
Industry, light	X	Y	X	X	X
Junk Yard	X	SP	X	X	X
Kennel, commercial (not defined)	X	X	Y	Y	Y
Nursing or convalescent facility	X	X	Y	Y	Y
Professional offices	Y	X	Y	Y	Y
Publishing and/or printing establishment	X	Y	X	X	X
Rental, automobile, truck, trailer	X	Y	X	X	X
Rental, boat, fishing gear	X	Y	X	X	X
Restaurant ≤3,000 sf GFA	Y	X	Y	SP	SP
Restaurant >3,000 sf GFA	SP	X	SP	X	X
Retail sales/service, ≤3,000 sf GFA	Y	X	Y	Y	X
Retail sales/service, >3,000 sf GFA	SP	X	SP	X	X
Resort and conference center	X	X	X	X	X
Service and repair, non-automotive (carpentry, electrical, plumbing, etc.)	X	Y	X	X	SP
Spa resort	X	X	X	X	Y
Studio, artist dance, photography	Y	Y	Y	Y	Y
<b>INDUSTRIAL</b>					
Concrete batching plant	X	SP	X	X	X
Manufacturing, assembling, processing, packaging	X	Y	X	X	X
Plumbing, electrical, carpentry	X	Y	X	X	X
Warehousing, Rental, and bulk storage	X	Y	X	X	X
Wastewater Effluent disposal	X	SP	X	X	X
Wind, Solar, Energy Facility (other than private)	X	SP	X	X	X
<b>GOVERNMENT, CULTURAL, INSTITUTIONAL</b>					
Conservation, open space land	X	X	Y	Y	Y
Municipal use	Y	X	Y	Y	Y
Museum	Y	Y	Y	X	X
Public use, other	Y	X	Y	X	Y
Recreation, passive	Y	X	Y	Y	Y
<b>ACCESSORY USES</b>					
<b>COMMERCIAL</b>					
Antique, craft, and gift shops	Y	Y	Y	Y	Y
Barber shop, beauty salon	Y	X	Y	Y	Y
Office	Y	X	Y	Y	Y
Outdoor Dining Service Area	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
Retail complementary to	Y	Y	Y	X	Y

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
principal use					
<b>ACCESSORY USES</b>					
<b>COMMERCIAL</b>					
Service trades	X	Y	X	X	X
<b>ACCESSORY USES</b>					
<b>RESIDENTIAL</b>					
Affordable Dwelling unit	Y	Y	Y	Y	Y
Apartment located above permitted commercial use	Y	X	Y	Y	Y
Single-family	Y	X	Y	Y	Y
Two-family or duplex dwelling	Y	X	Y	Y	Y
Apartments and townhouses	Y	X	Y	Y	Y
Bed and breakfast	X	X	X	Y	Y
Family daycare, licensed per G. L. c. 15D, §1A.	Y	X	Y	Y	Y
Farm stand, non-exempt per G. L. c. 40A, §3Y.	SP	X	Y	SP	SP
Home Occupation	Y	X	Y	Y	Y

### 3.8.5.2 Continuation

Any lawfully established lot, structure or use existing at the time of the adoption of this Section that does not conform to the provisions of the Eastham Corridor Special District shall be allowed to continue.

### 3.8.5.3 Change, Alteration, Expansion of Non-Conforming Structures and Uses

Notwithstanding the provisions of G.L Chapter 40A, and Section 4 of the Eastham Zoning Bylaw, lawfully established structures and uses in existence as of May 7, 2018 that do not conform to the ECSD District Wide Development Standards may be changed, altered or expanded in accordance the following procedures:

#### 3.8.5.3.1 Minor Site Plan Review

A pre-existing, non-conforming structure or use may change or expand up to 250 square feet of building footprint or exterior of building or site area through Minor Site Plan Review in accordance with Section 3, District I, subsection 3.9.6.3.1 Minor Site Plan Review, provided that the following criteria are determined to be met.

1. The property shall have no more than one defined curb cut onto Route 6 and shall not propose additional Route 6 curb cuts;
2. A landscaped area of at least 20 feet in depth exists and shall be maintained on the subject property along its road frontage;
3. No additional parking or pavement shall be proposed in the lot's Front Yard area. The specific change or expansion shall comply with all dimensional standards in the ECSD.

Pre-existing non-conforming structures and/or uses unable to comply with the criteria 1-4 listed above may apply for Major Site Plan Review approval under 3.8.5.3.2

#### 3.8.5.3.2 Major Site Plan Review

A pre-existing, non-conforming structure or use may change or expand up to 1000 square feet of the building footprint or exterior of building or site area or undergo a change of use in accordance with Section 3, District I, subsection 3.9.6.3.2 , Major Site Plan Review, provided that the following criteria are determined to be met.

1. The property shall have no more than one defined curb cut onto Route 6 or shall provide an interconnection to an adjacent property to limit future curb cuts onto Route 6;
2. A landscaped area of at least 20 feet in depth wide exists or will be provided and shall be maintained on the subject property along its road frontage; or, for pre-existing non-conforming sites where the building is within 30 feet of the road Right of Way a landscaped area of at least 12 feet shall be required
3. The amount of parking in the Front Yard area shall be reduced; and
4. The specific change or expansion shall comply with all dimensional standards in the ECSD

#### 3.8.5.3.3 Special Permit

A pre-existing, non-conforming structure or use that proposes to change or expand more than 1,000 square feet of building footprint or of exterior building area or site area require a Special Permit in accordance with Section 3, District I, subsection 3.9.9, ECSD Site Plan Special Permit. The specific change or expansion shall comply with all dimensional standards in the ECSD, including building setback, parking location, maximum building footprint, façade variation, landscaping, and Route 6 access.

#### 3.8.5.3.4 Use Limitations

1. Special Permits may be granted for uses not specifically permitted but which is consistent with the intent of the zoning district characteristics as expressed in Section 3.(I) of this bylaw.
2. Drive-throughs are prohibited, except for banks.

#### 3.8.5.3.5 ECSD District Wide Development Standards

The following standards shall apply to all development within the district. The Planning Board (SPGA) or in the case of Minor Site Plan Approval, the Planning Board's designee, shall use the standards as criteria for consideration of Major and Minor Site Plan Approvals and Special Permit approval.

## 1. Dimensional Standards

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
Minimum Lot Size	20,000 sf	40,000 sf	40,000 sf	40,000 sf	40,000 sf
Minimum Frontage Building Setback	20' on Route 6 5' on Brackett Rd	25'	25'	25'	25'
Maximum Frontage Building Setback	30' on Route 6 15' on Brackett Rd	NA	50'	50'	
Side Setback	10' on Route 6 0'-15' on Brackett Rd	10'	10'	10'	10'
Rear Setback	10'	10'	10'	10'	10'
Parking Setback	At least 20' behind front building façade	10'	At least 20' behind front Building facade	At least 20' behind front Building facade	At least 20' behind front Building facade
Maximum Individual Building Footprint	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings	10,000 sf	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings	2,000 sf in front of lot; 5,000 sf if located behind frontage buildings	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings
Maximum Total Building Coverage	50%	50%	30%	30%	30%
Maximum Lot Coverage	80%	80%	80%	65%	65%
Maximum Building Height	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.
Gross Floor Area on 2 <sup>nd</sup> Floor	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area
Façade Variation	5' setback or projection every 40'		5' setback or projection every 40'	5' setback or projection every 40'	5' setback or projection every 40'
Pocket Park/Pedestrian Plaza	50 sf per development site				

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
Landscaping	Street trees 1 every 35' 4" min. caliper; landscaping required in front yard area	Minimum 10' wide landscaped area	Street trees 1 every 35' 4" min. caliper; Minimum 25' wide landscaped area	Minimum 25' wide landscaped area	Minimum 25' wide landscaped area
Parking Lot Landscaping	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces
Route 6 Access	Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed		Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed	No Route 6 access allowed; must use secondary road access	Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed

#### 3.8.5.5.2 Parking, Driveway, Vehicular and Pedestrian Access Standards

1. All driveway and parking areas shall be visually buffered from all streets by placing them behind frontage buildings and/or through the use of berms or natural features and/or plantings, using materials that shall maintain a minimum of 50% of their effectiveness year-round. All driveway and parking areas shall be visually buffered from adjoining residential uses by one or more of the following; earthen berms, fencing, and plantings, using materials that shall maintain a minimum of 75% of their effectiveness year-round. Visual buffers shall be designed, placed and maintained to reduce light from vehicular headlights from reaching onto adjoining streets and other properties.
2. A portion of the required parking may be accommodated on access drives within the project area, provided such parking does not interfere with sight lines to pedestrian or vehicular access routes, directional signage, or interfere with vehicular access/egress in any area.
3. Landscaped islands shall be designed with consideration given to the need for shade, pedestrian access where appropriate, snow storage, and the need to soften the appearance of large paved areas.
4. Parking areas may consist of either pervious hard surfaces or impervious surfaces, provided that provisions acceptable to the Planning Board to manage surface water runoff are provided. The Planning Board may allow up to 10% of the required parking to be constructed in an alternative paver which incorporates the use of grass or a "grass on gravel" system to allow for greater permeability and an appearance more characteristic of open space/courtyard features, to be used exclusively for overflow parking beyond that normally needed to service the uses on site. The location of such spaces should be in peripheral areas of the parking facility where they can enhance the appearance of adjoining open space and not be in a location where they would be in daily use or overlap with pedestrian activity.

5. Parking areas shall be lighted to provide adequate visibility for use in the dark without adversely impacting adjacent uses or parcels and shall conform to Lighting Standards in subsection 3.8.5.5.9
6. Off-street parking spaces may be laid out in a perpendicular, angled, or parallel alignment provided adequate access is provided for vehicles to enter and leave the spaces; pedestrians to enter and leave the vehicles, and service and emergency vehicles to access the drives, parking areas, and buildings.
7. Perpendicular or angled parking spaces shall not be less than 9 feet wide by 18 feet in depth. However, at the discretion of the Planning Board, up to 5% of the required parking spaces may be accommodated using a layout of an 8-foot width by a 17-foot depth. Such spaces shall be identified by a sign mounted at a height of not less than 5 feet or more than 8 feet indicating the space is for a subcompact car only. In no case shall parallel parking spaces be less than 8 feet in width (depth) and 22 feet in length.
8. Driveways which can be shared for more than one use are encouraged, provided the Planning Board determines that sharing does not limit adequate service or emergency access at any time or serve as the only route of vehicular access to a project.
9. Customer and residential pedestrian access areas shall include a combination of walkways and landscaping. Such pedestrian access shall be provided from the streets providing frontage and/or access for the project as well as the drives and parking areas within the project. Pedestrian access routes shall be laid out to minimize conflict with vehicular routes, and where the two cross, the pedestrian route shall be clearly marked on the vehicular surface and when appropriate, with signage. Pedestrian access routes shall be lighted to provide adequate visibility for use in the dark without adversely impacting adjacent uses or parcels.

#### 3.8.5.5.3

##### General Parking Requirements

Off-street parking spaces in the amounts specified in Table of Parking Requirements shall be provided for each use, unless an alternate amount is approved through Site Plan Review or by Special Permit, in accordance with subsections 3.9.7, 3.9.8 and 3.9.9, Minor and Major Site Plan Review Procedures, and Special Permit Review Procedures.

TABLE OF PARKING REQUIREMENTS		
Spaces per 1,000 sf		
Land Use	Maximum	Minimum
Residential - Single Family/Two Family/Duplex	2 per unit	1 per unit
Residential- Apartments/Townhouses/Accessory Units/Other	1.5 per unit	1 per unit
Retail	3	2
General Office	4	2
Hotel, Motel, Lodgings	1 space per sleeping room	1 space per sleeping room
Medical Office	4	3
Restaurant	1 space per 4 seats	1 space per 4 seats
Coffee shop/cafe	1 space per 2 seats	1 space per 3 seats
Personal Services Establishment	3	2
Industrial	2.5	1.5
Social, Fraternal Organizations	4	3
Churches, places of worship	1 space per 3 seats	1 space per 5 seats
All other uses	3 or other amount, as determined by the Planning Board based on the character of the use proposed	2 or other amount, as determined by the Planning Board based on the character of the use proposed

#### 1. Waiver Requests

Applicants may seek a waiver from the Planning Board and the Planning Board shall have the authority through Site Plan Review to reduce the minimum number of parking spaces required or to exceed the maximum amount by up to 10%. Applicants seeking to exceed the maximum amount by more than 10% of the requirement shall obtain Special Permit approval from the Planning Board.

#### 2. Shared Parking

The number of parking spaces required may be reduced for shared parking at the discretion of the Planning Board provided such reduction does not shift a demand for parking onto public streets or any areas not equipped to handle such activity.

##### 1. Shared On-Site Parking

To implement shared on-site parking between two or more uses, the applicant shall provide expert analyses as part of Site Plan Review to demonstrate that proposed uses are either competing or non-competing and the applicant shall pay for peer review, as and if required by the Planning Board.

2. Non-competing Uses

In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to 50% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board and the Board may require peer review of the information provided.

3. Competing Uses

In a mixed-use development, an applicant may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board shall have the authority, but not the obligation, to reduce the parking requirements of the predominant use by up to 30%.

4. In consideration of a request to share parking, the Planning Board shall require that an applicant shall provide evidence that satisfies the Board that the following conditions are satisfied:

1. The shared parking is sufficient to adequately service the adjoining uses without leaving either in a deficit of spaces needed;
2. The shared parking has well defined pedestrian access to both uses;
3. There is a legally binding and permanent agreement, executed by all parties to be served and recorded, which permits vehicular and pedestrian access to and from all the parcels involved; this agreement must be in place, and a copy provided to the Building Inspector before issuance of an Occupancy Permit.

3.8.5.5.4 Building Design Standards

1. Variation in the overall architectural design, including set-backs and projections in the building facades, changes in roof ridge and eave height, and incorporation of porches, display windows and entrances that are pedestrian-scale and compatible with the small-scale character of Eastham shall be included in all new construction. All building facades that abut public streets should have characteristics similar to the primary façade. Applicants may refer to the Cape Cod Commission's Technical Bulletins "Designing the Future to Honor the Past: Design Guidelines for Cape Cod" and "Contextual Design on Cape Cod: Design Guidelines for Large Scale Development" for design guidance.
2. All roof mounted mechanical equipment must be enclosed to reduce the noise of operation and eliminate visibility of such equipment from the equivalent of an adjoining second floor level. In no case shall roof mounted equipment or the accompanying enclosures exceed a height of 6 feet above, or occupy, with the exception of photovoltaic and associated solar energy systems more than 30% of the area of the roof surface.
3. Buildings with traditionally sloped roofs are preferred, and those with a pitch of at least 7/12 are allowed greater maximum building height than flat-roofed structures.

4. Exterior building facades shall incorporate traditional building materials such as wood shingle or clapboard siding or shall use composite materials that approximate or reference traditional siding materials. Building orientation, layout, and configuration shall be designed to provide adequate light and air for the proposed and adjoining buildings.

3.8.5.5.5 Internal Roadways, Walkways, Paths and Parking Area Standards

1. Internal roadways shall be designed to provide for safety; visual appeal; separation of vehicular, bicycle and pedestrian traffic; convenient connectivity within and without the site; and maximum access to the various amenities and facilities on the site and to pathways on adjacent sites. All internal roadways, walkways, paths and parking areas shall be maintained by the owner or an association of unit owners, as applicable.

3.8.5.5.6 Drainage and Storm Water Management Standards

1. Stormwater for all roadways, driveways and parking areas shall be managed and infiltrated on site, close to the source, to minimize runoff and maximize water quality treatment. Stormwater water quality treatment shall be consistent with 310 CMR 10.00 and the Massachusetts Stormwater Management Handbook to attain 80-percent total suspended solids removal and to reduce nutrients. All designs shall provide for at least 44-percent total suspended solids removal prior to discharge into structured infiltration systems.
2. Stormwater design for the first inch of storm water flow from all roadways, driveways and parking areas shall use biofiltration practices including, but not limited to, vegetated swales and filter strips, constructed wetlands, tree box filters, bio-retention areas and rain gardens for treatment of stormwater runoff. Bioretention areas shall be constructed in accordance with the Massachusetts Storm Water Management Volume One: Stormwater Policy Handbook March 1997.

3.8.5.5.7 Landscape Plan and Buffering Standards

1. No clear-cutting shall be permitted, except as necessary and incidental to development activities under an approved site plan. Required buffers shall maintain existing vegetation and topography to the greatest extent possible. Where additional planting is required to meet the landscaping standards in the ECSD Dimensional Table, new landscaped areas shall consist of mixed hardwood and evergreen trees, with associated shrubs perennials and groundcovers as appropriate to the site. All development shall submit a maintenance agreement for a minimum of three growing seasons to insure vegetation is properly established. Any planting that does not survive for three years, shall be replaced. Where, appropriate, pedestrian and bicycle accommodations may be installed within the landscaped area. Applicants may refer to the Cape Cod Commission's website for guidance in meeting these standards.

- 3.8.5.5.8 Service Access, Including Deliveries and Trash Removal Standards
1. Provisions shall be made for service vehicles to access the site and building so as not to obstruct pedestrian and vehicular access by residents, commercial patrons and emergency providers. All trash receptacles and areas to be used by service and delivery vehicles shall be visually and, to the extent reasonably practicable, acoustically buffered from adjoining residences by one or more of the following: earthen berms, fencing, and/or planting. Any relief granted shall be conditioned to require trash removal at sufficient frequency, especially during summer months, so as to mitigate odor and pest control issues. Any visual screening shall maintain a minimum of 75% of its effectiveness year-round. No service vehicle shall be allowed to have an engine idling for more than ten minutes unless it is necessary for the service being provided (for example: tree trimming, power washing, refrigeration, etc.).
- 3.8.5.5.9 Lighting Standards
1. Lighting shall be shielded such that peak candle power is at an angle of 75 degrees or less from vertical, and have a maximum luminaire mounting height of 30 feet, and a maximum off-site overspill of 1.0 foot-candles.
- 3.8.5.5.10 Formula Business Review Criteria
- The purpose and intent of the Formula Business review criteria shall be to regulate the visual features and address the adverse aesthetic impact of nationwide, standardized businesses on the visual character of Eastham. The visual impact of formula-based businesses would have a negative impact on the Town's distinctive Cape Cod character, which is critical to the Town's tourist-based economy and its status as a "Cape Cod vacation destination" and enhances the quality of life for residents. Formula Businesses which are identifiable through exterior arrangements (signs/colors/symbols and design and arrangement of structures and similar arrangements that visually identify the business as a chain or formula business) shall require Special Permit authorization from the Planning Board to ensure that the exterior arrangements in the ECSD shall not detract from Eastham's individuality and community character. In addition to Special Permit approval criteria provided in Subsection K.4 of this bylaw, the Planning Board shall take the following additional criteria into consideration when reviewing an application for Formula Business:
1. The extent to which the exterior arrangements of the Formula Business would be compatible with and reflect the aesthetic appearance and individuality of the ECSD;
  2. The extent to which the exterior arrangements of the Formula Business that are typically used for the business at other locations outside of the ECSD have been proposed to be modified.

### 3.9.6

## **ECSD REVIEW PROCEDURES**

#### 3.9.6.1

### **Purpose**

#### 1. Minor and Major Site Plan Review

The purpose of Site Plan Review is to provide for comprehensive review of proposed development in the ECSD that could impact the visual character, natural resources, and traffic circulation of the area. Site Plan Review shall be a process that allows the Planning Board or its designee to ensure that proposed development satisfies the requirements of Section 3.0, District I.

#### 2. Special Permit Site Plan Review

The purpose of Special Permit review is to ensure that new development and redevelopment which may have significant impacts upon ECSD or the Town of Eastham is designed in a manner that minimizes adverse impacts, in accordance with Chapter 40A of the Massachusetts General Laws.

#### 3.9.6.2

### **Types of Review**

#### 1. Residential uses within the ECSD shall fall under Eastham Zoning Bylaw Section 10.3 Site Plan Approval Residential.

#### 2. The following types of new development require approval by the Planning Board or its designee prior to issuance of a building permit. **For changes, alterations, expansion of pre-existing non-conforming structures and uses also reference Section 3, District I, subsection 3.8.5.3**

Table of Regulatory Review for New Development

MINOR SITE PLAN Planning Board Designee Approval	MAJOR SITE PLAN Planning Board Approval	SITE PLAN SPECIAL PERMIT Planning Board Approval
<ul style="list-style-type: none"> <li>Exterior construction, expansion or alteration of structure(s) less than or equal to 500 sf of the building footprint or exterior of building or site area. OR</li> <li>Additional Site Coverage of less than or equal to 500 sf, OR</li> </ul>	<ul style="list-style-type: none"> <li>Exterior construction or expansion of structure(s) resulting in an increase between 501 – 3000 sf. of the building footprint or exterior of building or site area. OR</li> <li>Increase greater than 500 sf of additional site coverage, OR Change of Use, OR</li> </ul>	<ul style="list-style-type: none"> <li>Exterior construction or expansion of structure(s) resulting in an increase greater than 3000 sf of the building footprint or exterior of building or site area. OR</li> <li>Use requiring a Special Permit per Table of Uses, OR</li> <li>Formula Business OR</li> </ul>
<ul style="list-style-type: none"> <li>Creation of 1- 4 additional parking spaces, and the parking is not located in front of lot, OR</li> </ul>	<ul style="list-style-type: none"> <li>Creation of 5 -10 additional parking spaces, OR</li> <li>Changes to site access, pattern of pedestrian and/or vehicular movement within the site or in relation to adjacent properties or streets, including interconnection(s) between adjacent lots, OR</li> </ul>	<ul style="list-style-type: none"> <li>New curb cut onto Route 6, OR</li> <li>Creation of greater than 10 additional parking spaces, OR</li> <li>Creation of new or change to existing Route 6 access, OR</li> </ul>
<ul style="list-style-type: none"> <li>1 new interior Accessory Dwelling Unit</li> </ul>	<ul style="list-style-type: none"> <li>2-3 new interior Accessory Dwelling Units (no change to building footprint), OR</li> <li>1-3 new dwelling units, principal or accessory use.</li> </ul>	<ul style="list-style-type: none"> <li>4 or more new dwelling units, principal or accessory use, OR</li> </ul>
		<ul style="list-style-type: none"> <li>Outside display of devices, goods or other objects for sale, rent or for the promotion of the business outside, if kept in place after daily business hours</li> </ul>

### 3.9.6.3 Site Plan Approval

#### 1. Minor Site Plan Approval

The Planning Board's designee, without a public hearing, shall issue a written determination for Minor Site Plan approval upon a determination that all of the

requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied.

2. Major Site Plan Approval

Major Site Plan approval shall be granted upon a favorable vote of a majority of the Planning Board upon a determination that all of the requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied and a public hearing shall be required.

3. Site Plan Special Permit Approval. Approval shall be granted only upon a favorable vote of a super-majority of the Planning Board upon a determination that all of the requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied following a public hearing.

4. In granting Major Site Plan Review Approval, or Special Permit Approval, the Planning Board may impose reasonable conditions as may be necessary or appropriate to:

1. Enforce compliance with substantive requirements of the Eastham Zoning Bylaw, unless waived.
2. Protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Eastham.

3.9.6.4 Disapproval

The Planning Board or its designee in the case of a Minor Site Plan review may deny approval of a site plan for a use allowed by right only on the grounds that the application materials or plan contents required under this Section 3.0, District I, 3.9.7.2, 3.9.8.3, 3.9.9.2 have not been submitted and/or were not submitted at the appropriate time.

3.9.6.5 Conditions

Among its conditions, the Board or in the case of Minor Site Plan, its designee may require the provision of adequate security by the applicant, in such form and amount as may be determined by the Board. This security is to ensure the satisfactory completion of all improvements required by site plan approval. The Planning Board may also require a formal commitment to future compliance, including a monitoring program post-permit issuance for compliance purposes for a time specified in the site plan approval, including restrictive covenants which shall be recorded before any building permit issues.

3.9.6.6 Approval Lapse

Site Plan and Special Permit Approval shall lapse three (3) years from the date of issuance unless construction or operation under the approval has commenced.

### 3.9.7 ECSD MINOR SITE PLAN PROCEDURES

#### 3.9.7.1 Preliminary Meeting

Applicants are encouraged to schedule a preliminary meeting with Town Staff at which time the level of review may be determined. Such preliminary reviews may help identify general approaches and allow for exploration of potential problems at an early stage. Sketches, which need not be professionally prepared, are intended to initiate the discussion and do not need to show all of the information required for a formal site plan application. The applicant should contact the Town Planner to schedule a preliminary review with Town staff.

#### 3.9.7.2 Minor Site Plan Application Filing

Each application for Minor Site Plan Approval shall be filed by the petitioner with the Planning Department.

1. Each application shall be accompanied by the required fee:
  1. The fee schedule is listed in the Planning Board Regulations.
  2. The applicant will bear the costs of any outside planning or engineering consultant requested by the Planning Board or its designee.
2. A complete filing for Minor Site Plan Approval shall include the following items:
  1. A completed application for Minor Site Plan Review.
  2. A letter of denial and/or zoning determination from the Building Commissioner.
  3. A checklist showing compliance with the design standards and/or dimensional requirements.
  4. A site plan which may be prepared by the applicant. However, the Planning Board or designee may require the submission of additional information and/or may require information be prepared by a licensed professional if it is determined that such information is necessary to make an informed decision. All site plans shall be prepared using an appropriate scale and be based upon reliable datum, suitable for the content of the topic covered on the sheet and shall include the following:
    1. The location and boundaries of the lot, adjacent street/ways,
    2. Existing and proposed structures,
    3. The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location and number of parking spaces,
    4. The location for exterior components on the site such as refuse containers, benches, mechanical components etc.
    5. The location and description of existing signs and the location and a sketch of proposed signs with dimensions.

#### 3.9.7.3 Minor Site Plan Decision

The Planning Board or its designee, after completing review of the minor site plan, shall file a written decision not later than 45 days of receipt of a completed application in the office of the Town Clerk, and notify the applicant of the decision. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the 45-day period shall be considered approval of the minor site plan. The applicant who seeks such approval because of the

failure of the designee to act in the time prescribed shall notify the Town Clerk, in writing, within 14 days from the expiration of said 45 days or extended time.

#### Appeal of Minor Site Plan Decision

- Any person aggrieved by a decision of the designee on a minor site plan may appeal said decision to the Town of Eastham Planning Board. Such appeal must be filed with the Board within 20 days of the filing of the designee's decision with the Town Clerk.
- Any person aggrieved by a decision of the Planning Board on a Minor Site Plan may appeal said decision to the Town of Eastham Zoning Board of Appeals. Such appeal must be filed with the Zoning Board of Appeals within 20 days of the filing of the Planning Board's decision with the Town Clerk, and, only thereafter to a court of competent jurisdiction under MGL c. 40A, Section 17.

### 3.9.8 ECSD MAJOR SITE PLAN PROCEDURES

#### 3.9.8.1 Preliminary Meeting

Applicants are encouraged to schedule a preliminary meeting with the Planning Board prior to a formal filing. Such preliminary reviews may help identify general approaches and allow for exploration of potential problems at an early stage. Sketches, which need not be professionally prepared, are intended to initiate the discussion and do not need to show all of the information required for a formal site plan application.

#### 3.9.8.2 Waiver of Major Site Plan Review

When meeting with the Planning Board for a preliminary review, the Board may vote to waive the applicant's need to submit an application for site plan review and/or waive certain submission requirements. The applicant must contact the Town Planner to schedule a preliminary review with the Planning Board.

#### 3.9.8.3 Major Site Plan Application Filing

Each application for Major Site Plan shall be filed by the petitioner with the Town Clerk including the date and time of filing certified by the Town Clerk.

1. Each application shall be accompanied by the required fee:
  1. The fee schedule is listed in the Planning Board Regulations.
  2. The applicant will bear the costs of any outside planning or engineering consultant requested by the Planning Board.
2. A complete filing for Major Site Plan Approval shall include the following items:
  1. A completed application for Major Site Plan Approval/Special Permit
  2. A letter of denial and/or zoning determination from the Building Commissioner.
  3. A checklist showing compliance with the design standards and/or dimensional requirements.
  4. Site plan(s) prepared by a Registered Professional Land Surveyor or Registered Professional Civil Engineer or both if required. All site plans shall be prepared at a defined scale suitable for the content of the topic covered on the sheet and shall include the following:

1. The location and boundaries of the lot, adjacent street/ways and a list showing names and addresses of direct abutters and abutters to the abutters within 300 feet,
2. Existing and proposed topography showing 2-foot contours, identifying the datum (i.e., “benchmark”) used and significant land features, natural and man-made, including, but not limited to, the location of wetlands, streams, bodies of water, drainage swales and areas subject to flooding,
3. Existing and proposed structures, including dimensions and all elevations,
4. The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location and number of parking spaces,
5. The location and description of all proposed on site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems,
6. Proposed landscape plan showing the location and description of screening, fencing, plantings, significant trees and finished grade contours,
7. The location and description of existing signs and the location and a sketch of proposed signs,
8. The location and description of existing and proposed open space or recreation areas,
9. A lighting plan showing existing and proposed exterior lighting, including building and ground lighting,
10. A plan for the control of sedimentation and erosion if applicable,
11. All easements, restrictions and covenants,
12. A traffic study if required by the Planning Board.
3. The Planning Board or designee may require additional information prepared by a licensed professional if it is determined that such information is necessary to make an informed decision.
4. Major Site Plan Application Review
  1. The Planning Board shall forward any application for Major Site Plan or Special Permit to the Health Agent, DPW Director, Building Commissioner, Conservation Agent, Police Chief and Fire Chief for their advisory review and written comments. Failure to respond within 30 days shall indicate presume approval by said agency. All recommendations to the Planning Board must be in writing. Failure of Boards to make recommendations prior to the date of the scheduled hearing shall be deemed to be acceptance of the plan.
  2. The Planning Board shall consolidate its site plan review and special permit procedures for proposals that require both Site Plan Approval and Special Permit authorizations.
  3. An application for a building permit to perform any of the activities listed under Section 3.9.6.2, ECSD Review Procedures allowed as-of-right shall be accompanied by an approved site plan.
  4. No deviation from an approved Major Site Plan shall be permitted without a modification thereof by site plan amendment, which shall be reviewed and approved by a majority vote of the Planning Board, unless waived.
  5. No building permit or certificate of occupancy shall be issued by the Building Commissioner without written approval of the Major Site Plan from the Planning

Board, or unless sixty-five (65) days lapse after the date of submittal of the Major Site Plan without a public hearing or within 90 days elapse from the close of the public hearing with action by the Planning board or unless evidence of a waiver by the Planning Board is provided A site plan application for a use allowed by right may only be denied if the Planning Board finds that it does not comply with the provisions of Section 3.0.I or other applicable provisions of the Zoning Bylaw or that it lacks sufficient information to make such a finding.

5. Major Site Plan Decisions

The Planning Board, under the standards set forth here, reviews Major Site Plans and Special Permits. The Planning Board shall hold a public hearing including notice to all abutters, within sixty-five (65) days of receipt of the completed submission and shall make a decision within ninety (90) days of the opening of the public hearing. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the sixty-five-day period is considered approval of the Major Site Plan. The applicant who seeks such approval because of the failure of the designee to act in the time prescribed must notify the Town Clerk, in writing, within 14 days from the expiration of said 65 days or extended time.

6. Appeal of Major Site Plan Decision

Any person aggrieved by the decision of the Planning Board on a Major Site Plan may appeal said decision to the Town of Eastham Zoning Board of Appeals within 20 days of filing the decision with the Town Clerk, and only thereafter to a court of competent jurisdiction under MGL c. 40A, Section 17.

**3.9.9 ECSD SITE PLAN SPECIAL PERMIT PROCEDURES**

3.9.9.1 Applicability

Development that requires a Site Plan Review Special Permit authorization in accordance with ECSD Use Table of this bylaw shall submit an application for Site Plan Special Permit approval. Special Permit authorization requires a vote of approval by a super majority of the Planning Board following a public hearing.

3.9.9.2 Application Filing and Contents

An application for Site Plan Review Special Permit shall follow the procedures provided in Section 3.9.8.3.

3.9.9.3 Special Permit Application Review

The Planning Board shall conduct review of Site Plan Review Special Permit applications in accordance with General Law Chapter 40A, Section 9 and shall follow the procedures provided in subsection J.3 (a)-(f) of this bylaw, which require a public hearing, with notice, and approval only upon supermajority vote.

3.9.9.4 Special Permit Approval Criteria

The Planning Board shall grant a Special Permit upon the written determination, as applicable, that the adverse effects of the proposed use shall not outweigh its beneficial impacts to the public interest, the town and the neighborhood, in view of the particular

characteristics of the site, and of the proposal in relation to that site. In addition to any other specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Impacts on economic or community needs;
2. Traffic flow and safety concerns, including Route 6 access limitations and preference for shared curb cuts with adjacent uses, including provision of sidewalks and pedestrian amenities, and including no parking in front yard setback area;
3. Adequacy of utilities and other public services;
4. Impacts on neighborhood character, including all dimensional requirements and including landscape buffers along Route 6;
5. Impacts on the natural environment; and
6. Fiscal impacts, including impacts on town services, the tax base and employment.
7. Compliance with all standards and requirements of the ECSD

The Planning Board shall also make such further findings as may be otherwise required by this Bylaw and may impose such additional reasonable conditions, safeguards and limitations as it deems appropriate to protect the surrounding neighborhood including, but not limited to, imposition of reasonable requirements greater than the minimums set forth in this Bylaw to address specific facts and circumstances identified in the decision and provided that the increase in minimums shall not exceed 15% (e.g., 15% increase in parking or landscaping buffer). A Special Permit shall lapse if a substantial use thereof has not sooner commenced, or, in the case of a permit for construction, if construction has not commenced (except for good cause) within three (3) years from the date of grant thereof.

#### 3.9.9.5 Special Permit Final Action

The Planning Board's final action shall consist of either:

1. A written denial of the application stating the reasons for such denial when filed with the Town Clerk's Office; or
2. The issuance of the Site Plan Special Permit subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary, in accordance with subsection 3.9.9.4, when filed with the Town Clerk's Office.

#### 3.9.9.6 Special Permit Appeals

Any person aggrieved by a decision of the Planning Board on a Site Plan Review Special Permit may appeal said decision to a court of competent jurisdiction under MGL c. 40A, Section 17.

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or take any action relative thereto.

By Eastham Planning Board

**Summary:**

*Pandemic-related occupancy restrictions and other changes, while necessary for public health and safety have affected Eastham's local business community. In 2020 and 2021, The Town worked to support local restaurants' ability to adapt and respond to ever-changing business conditions by offering an expedited local permit for outdoor dining, made possible through special State authorization. This State authorization for temporary outdoor dining permits expired in April, leaving current permit holders with reduced options for continuing to use the outdoor dining areas they created under the temporary permit. The proposed regulatory amendments in tandem with the proposed amendments to Zoning Bylaw Section 5.0 (Accessory Uses) under Warrant Item # ??, provide a streamlined regulatory process for local restaurants to retain or add an Outdoor Dining Service Area as an accessory use to their principal business - while also complying with local and state regulatory requirements for health, public safety, and zoning.*

BOARD OF SELECTMEN RECOMMENDATION:

FINANCE COMMITTEE RECOMMENDATION:

PLANNING BOARD RECOMMENDATION:

*(2/3 Majority vote required)*